

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF MISSISSIPPI
GREENVILLE DIVISION**

STEVEN GREGORY MILLER

PETITIONER

V.

NO. 4:15-CV-00132-DMB-JMV

STATE OF MISSISSIPPI, ET AL.

RESPONDENTS

**ORDER TRANSFERRING CASE TO
FIFTH CIRCUIT COURT OF APPEALS**

Before the Court is Respondents' motion to transfer this case to the Fifth Circuit Court of Appeals as a successive petition for a writ of habeas corpus. Steven Gregory Miller has submitted a petition for a writ of habeas corpus under 28 U.S.C. § 2254. Miller was convicted of aggravated assault in Sunflower County Circuit Court in June 2001. Miller has filed at least one other unsuccessful § 2254 motion concerning the same conviction which he now seeks to challenge. *See Miller v. State of Mississippi*, 2008 WL 449845 (N.D. Miss.). The Antiterrorism and Effective Death Penalty Act requires that before a second or successive petition is filed in the district court, "the applicant shall move in the appropriate court of appeals for an order authorizing the district court to consider the application." 28 U.S.C. § 2244(b)(3)(A). Miller has not obtained such an order. Rather than dismissing the petition on this basis, the Fifth Circuit permits district courts to transfer the petition for consideration pursuant to 28 U.S.C. § 2244(a) & (b)(3)(C). *See In re Epps*, 127 F.3d 364, 365 (5th Cir. 1997). Therefore, in the interest of justice and judicial economy, it is **ORDERED** that:

1. Respondents' motion [14] to transfer the instant petition for a writ of habeas corpus is **GRANTED**;

2. This petition will be transferred to the Fifth Circuit Court of Appeals for Miller to seek leave to file this successive § 2254 petition;

3. The Clerk of Court is directed to transfer this petition and the entire record to the Fifth Circuit Court of Appeals in accordance with 28 U.S.C. § 2244(a) & (b)(3)(C), and *In re Epps*, 127 F.3d at 365;

4. The remaining motions pending in this case are **DISMISSED** as moot; and

5. This case is **CLOSED**.

SO ORDERED, this 26th day of April, 2016.

/s/ Debra M. Brown
UNITED STATES DISTRICT JUDGE